

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
DIVISION OF REHABILITATION SERVICES**

**CHAPTER 1240-8-9
CONDUCT POLICY**

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1240-8-9-.01 SCOPE. Generally, through appropriate due process procedures, facility disciplinary measures shall be imposed for conduct which adversely affects the facility's pursuit of its rehabilitation objectives, which violates or shows a disregard for the rights of other members of the Tennessee Rehabilitation Center, the Tennessee Vocational Training Centers, facility community; or which endangers property or persons on facility or facility controlled property.

Authority: TCA §§49-11-605 and 49-11-608. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985.

1240-8-9-.02 MISCONDUCT SUBJECT TO DISCIPLINARY SANCTION. Individual or organizational misconduct which is subject to disciplinary sanction shall include but not be limited to the following examples:

- (1) Conduct Dangerous to Others. Any act of violence or threat of violence to other persons or to one's self.
- (2) Excessive Noise. Any excessive noise in the dormitories, infirmary area, administrative office area, or in the classroom area when classes are in session.
- (3) Disorderly Conduct. Any individual or group behavior which constitutes criminal obscenity, lewdness, or other conduct intended to, or which could reasonably be expected to disrupt the normal operation of a facility or the peaceful use of same by others.
- (4) Obstruction of or Interference with Facility, Activities, or Buildings. Any intentional interference with or obstruction of any facility activity, program, event, or facilities, including the following:
 - (a) Any unauthorized occupancy of facility controlled property and buildings or blockage of access to or from such facilities.
 - (b) Interference with the right of any facility member or other authorized person to gain access to any facility controlled activity, program, or event.
 - (c) Any obstruction or delay of a facility security officer or any facility official in the performance of his/her duty.
- (5) Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring, or unauthorized use of property belonging to the facility including, but not limited to, fire alarms, fire equipment, elevators, telephones, facility keys, library materials, and/or safety devices; and any such act against a member of the facility community or guest of the facility.

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- (6) **Theft, Misappropriation, or Unauthorized Sale.** Any act of theft, misappropriation, or unauthorized possession or sale of facility property or any such act against a member of the facility community or a guest of the facility.
- (7) **Misuse of Documents or Identification Cards.** Any forgery, alteration, of or unauthorized use of facility documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information upon reasonable request.
- (8) **Firearms and Other Dangerous Weapons.** Any unauthorized possession of or use of any kind on facility property.
- (9) **Explosives, Fireworks, and Flammable Materials.** The unauthorized possession, ignition, or detonation of any object or article which could cause damage by fire or other means to persons or property or possession of any substance which could be considered to be and is used as fireworks.
- (10) **Alcoholic Beverages.** The consumption or possession of alcoholic beverages on facility property.
- (11) **Drugs.** The unlawful possession or use of any drug or controlled substance (including, without limitation, any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), or sale or distribution of any such drug or controlled substance on facility property.
- (12) **Gambling.** Gambling in any form on facility property.
- (13) **Financial Irresponsibility.** Failure to meet financial responsibilities to the facility promptly including, but not limited to, passing a worthless check or money order in payment to the facility or to a member of the facility community acting in an official capacity.
- (14) **Unacceptable Conduct in Hearings.** Any giving of false testimony or other evidence at any hearing.
- (15) **Failure to Cooperate with Facility Officials.** Failure to comply with directions of facility officials acting in the proper performance of their duties.
- (16) **Smoking in Dormitory Rooms.** Smoking in dormitory rooms of the facility.
- (17) **Unauthorized Dormitory Access.** Any unauthorized presence of male students in female dormitories or unauthorized presence of female students in male dormitories.
- (18) **Car Registration.** Failure of students to register any vehicle brought on campus.
- (19) **Identification Cards.** Failure of students to carry identification cards while on facility premises.
- (20) **Attempts, aiding and Abetting.** Any attempt to break any of the foregoing rules of conduct, or helping or assisting in any way another person to break any of the foregoing rules.
- (21) **Violation of State or Federal Laws.** Any violations of state or federal laws or regulations prescribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference.
- (22) **Academic Dishonesty, Plagiarism, cheating, stealing, and any other form of academic dishonesty.**
- (23) **Chronic Tardiness or Absenteeism.**

Authority: TCA §§49-11-604(b). **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983.

(Rule 1240-8-9-.02 continued)

Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30 1985.

1240-8-9-.03 WHEN DISCIPLINARY ACTION MAY BE TAKEN. Disciplinary Action may be taken against a student for violation of the foregoing regulations which occur on facility owned, leased or otherwise controlled property or which occur off facility premises when the conduct impairs, interferes with, or obstructs any facility activity or the missions, processes and functions of the facility. In addition, disciplinary action may be taken on the basis of any conduct on or off campus which poses a substantial threat to persons or property within the facility community.

Authority: TCA §49-11-604. Administrative History: Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985.

1240-8-9-.04 PERSONNEL RESPONSIBILITIES FOR DISCIPLINARY ACTION. Students guilty of violation of the foregoing rules are immediately responsible to their facility counselor. The facility counselor has the primary responsibility for control of a student's facility rehabilitation program.

Authority: TCA . 49-11-604. Administrative History: Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985.

1240-8-9-.05 DISCIPLINARY SANCTIONS.

- (1) Upon a determination that a student has violated any of the rules, regulations, or disciplinary offenses set forth in the regulations, the following disciplinary sanctions may be imposed, either singly or in combination, by appropriate facility officials.
 - (a) Restitution. A student who has committed an offense against property may be required to reimburse the facility or other owner for damage to or misappropriation of such property. Any such payment in restitution shall be limited to actual cost of repair or replacement.
 - (b) Warning. The appropriate facility official may notify student that continuation or repetition of specified conduct may be cause for other disciplinary action.
 - (c) Reprimand. A written reprimand, or censure, may be given any student whose conduct violates any part of these regulations. Such a reprimand does not restrict the student in any way, but does have important consequences. It signifies to the student that he or she is in effect being given another chance to conduct himself or herself as a proper member of the facility community, but that any further violation may result in more serious penalties.
 - (d) Restriction. A restriction upon a student's privilege for a period of time may be imposed. This restriction may include, for example, denial of the right to represent the institution in any way, denial of use of facilities, parking privileges, participation in extracurricular activities, or restriction to the facility grounds.
 - (e) Probation. Continued enrollment of a student on probation may be conditioned upon adherence to these regulations. Any student placed on probation will be notified of such in writing and will also be notified of the terms and length of the probation. Probation may include restrictions upon the extracurricular activities of a student. Any conduct in violation of these regulations while on probationary status may result in the imposition of a more serious disciplinary sanction.

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- (f) Suspension. If a student is suspended, he or she is separated from the facility for a stated period of time with conditions of readmission stated in the notice of suspension.
 - (g) Expulsion.
 - 1. Expulsion with Option to Reapply. Expulsion entails separation from the facility for serious or continuous violation of Center rules and regulations. Students expelled with an option to reapply will be so informed at the time of expulsion. Students will be given a stated period of time, usually six months, after which they may reapply for TRC services. Their application for readmission will be considered by the Admissions Committee and will be judged against standard admission criteria used for all incoming students.
 - 2. Permanent Expulsion. This sanction entails permanent separation from the facility. The imposition of this sanction is a permanent bar to the student's readmission to the Tennessee Rehabilitation Center. This is the most severe disciplinary action available to the Center and is used only when Center officials determine that the student cannot be rehabilitated in the setting of a comprehensive rehabilitation center. Permanent expulsion does not necessarily mean the student loses access to rehabilitation services. Services can be provided through the sponsoring counselor or at other appropriate rehabilitation sites.
 - (h) Interim or Summary Suspension. Summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on the facility premises poses continuing danger to persons or property or poses an ongoing threat of disrupting the academic or rehabilitative process. In any case of immediate suspension, the student shall be provided the opportunity for an administrative review/fair hearing on the suspension as soon as possible.
- (2) The administrator of the facility is authorized, in his or her discretion, to subsequently convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases.

Authority: TCA. §49-11-605. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983.

1240-8-9-.06 ENTITLEMENT TO ADMINISTRATIVE REVIEW AND/OR FAIR HEARING. Students may request due process review of a sanction imposed upon them and are to be offered all levels of appropriate review as set forth hereinafter prior to the imposition of the sanction except for those circumstances justifying temporary removal or exclusion.

- (1) Supervisory Review. All students who have been notified they will be sanctioned shall be afforded the opportunity to request and receive a supervisory review of the events leading to disciplinary action with the Regional Facilities Supervisor. The supervisory review is available in all cases of sanction less than suspension or expulsion.
- (2) Administrative Review. Students may elect administrative review in cases of suspension, expulsion, summary suspension, or in any other circumstances deemed appropriate by the administrative official. If the student elects an administrative review, he/she will be informed that the administrative review will be held within 24 hours of the date of receipt of notice. Immediately, the student will be informed in writing of the following: date and time of review, that the review will consider the allegations of the statement of misconduct contained in the original notification, that the student will have a right to make a personal appearance to present evidence, to call witnesses in his/her behalf, and to question staff. This is to be formally presented in writing to the student and attached to the notice of violation. The Administrative Review Officer will notify the student in writing of his or her decision. The sanction will be imposed after determination by the administrative official. If it is determined through the

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administrative appeal that a reversal of the previous decision is eminent, the student shall be reinstated to his/her former status immediately. Further appeals are available under the fair hearing procedures.

- (3) Fair Hearings. Any student who has been notified that he/she will be suspended, expelled, or directed to make restitution has the right to request and receive a fair hearing on the action, as provided in Chapter 1240-5-1. The fair hearing will take place after the student has been afforded an opportunity for supervisory or administrative review.
- (4) Entitlement to Administrative Review and/or Fair Hearing. Entitlement to Administrative Review and/or Fair Hearing policies also apply to the Tennessee Vocational Training Center facilities program that are identical to the statement above concerning the Tennessee Rehabilitation Center program except that the supervisory review will be conducted by the Center Manager and the administrative review will be conducted by the Regional Facilities Supervisor.

Authority: TCA , §49-11-604. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983.

1240-8-9-.07 SEARCH AND INSPECTION POLICY.

- (1) Search by Center Officials. The Center reserves the right to enter into facility-owned property by authorized Center officials for the purpose of search and seizure if there is reasonable cause to believe that a student is using a residency for purposes which are illegal or which are contrary to the regulations of the facility.
 - (a) An "Authorization to Search" may be issued when there is reasonable cause to believe that persons, objects or materials are present in violation of Center regulations or illegally. The search authorization normally is made by the Night Administrator when housing facilities are involved or by the Deputy Center Director when other Center facilities are involved. When there is apparent danger to persons or property or situation involving serious misconduct, any of the above persons named or any executive level staff member of the Center may authorize a search.
 - (b) The persons authorizing a search will normally complete the Authorization to Search Form (Form A-33) before the search is conducted. When it is not feasible to obtain a letter of authorization, oral authorization will be obtained. The Authorization to Search will be confirmed in writing at the earliest possible time. A completed copy of the Authorization to Search forms will be filed with the Security Office and with the Office of the Center Director as soon after the search as possible. A third copy will be presented to the individual whose premises were searched. Circumstances which would authorize a search by Center officials consist of said officials observing or otherwise determining through physical senses (sound, smell, etc.) that a violation is taking place at any given time. For example, if a Center official can see illegal contraband in a resident's room, he/she does not need a warrant or consent of a student to legally enter and confiscate said contraband.
 - (c) Except in apparently dangerous situations, a search will be conducted by at least two persons, one of whom should be an administrative official. If feasible, the person or persons whose residence is being searched should be present during the search. A reasonable effort will be made by the Center official conducting the search to locate the student prior to making the search.
 - (d) All evidence found in such searches will be retained by the Center Security Office or by civil authorities until disposition of the case. A statement will be given to the student listing all items seized in the search.

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- (e) The Center also has the option to elect the use of a search warrant by campus security or city police. In these instances, the student will be subject to the disciplinary regulations of the Center and to what action the civil authorities may deem necessary.
- (2) **Housing Facility Inspection.** Dormitory Supervisor will make periodic, scheduled inspection of housing facilities to see that no damage is occurring from improper cleaning, storage of food, or abuse of furnishing. As an integral part of a comprehensive rehabilitation program, room inspections will be made for students whose rehabilitation program include vocational evaluation and work adjustment training. These inspections will be scheduled in advance. In addition, all non-honor students in vocational training will be scheduled for weekly room inspections. After 30 days in honor status and evidence of proper room maintenance, room inspections may be discontinued by the student's program manager. These inspections are not searches. Dormitory Supervisors will examine the facilities only for the purpose stated.
- (3) **Entry for Safety and Health Inspection.** The facility reserves the right of entry to dormitory rooms on an announced scheduled basis if health hazards present at the facility should necessitate such inspections.
- (4) **Maintenance Inspection of Center Housing Facilities.** Center maintenance personnel will enter Center-owned housing facilities for routine maintenance work and in response to request for repairs.
- (5) **Emergency Entry.** The facility reserves the right of entry to dormitory rooms for purposes of responding to health, safety or maintenance problems of an emergency nature.
- (6) The "search and inspection" policy of the Tennessee Vocational Training Center facilities program will follow the same policies outlined in the search and inspection policy described above for the Tennessee Rehabilitation Center except the search authorization will be made by the Center Manager.

Authority: TCA , 49-11-604. **Administrative History:** Original rule filed June 30, 1980, effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983.